



Appeal Decision

Site visit made on 25 January 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/K1128/W/20/3260787

Land adj. to The Old Mill, Woodland Road, Harbertonford TQ9 7RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Poppy Developments against the decision of South Hams District Council.
 - The application Ref 2499/18/FUL, dated 27 July 2018, was refused by notice dated 8 April 2020.
 - The development proposed is demolition of existing barn structure and erection of 4 new residential dwellings with associated garage building and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing barn structure and erection of 4 new residential dwellings with associated garage building and landscaping at Land adj. to The Old Mill, Woodland Road, Harbertonford, TQ9 7RS, in accordance with the terms of the application, Ref 2499/18/FUL, dated 27 July 2018, subject to the conditions in the attached schedule.

Preliminary matters

2. During the processing of the appeal, a unilateral undertaking made under the provisions of Section 106 of the Town and Country Planning Act 1990 was submitted. I return to this matter later in my decision.

Main Issues

3. The main issues are:
 - the effects of the proposal on the character and appearance of the area and on the setting of the adjacent Grade II listed Old Mill buildings, and whether it would preserve or enhance the character or appearance of the Harbertonford Conservation Area;
 - the effects of the proposal on the living conditions of neighbouring occupiers, with particular regard to its proximity and potential to appear overbearing; and
 - whether the proposal would deliver adequate vehicle parking spaces.

Reasons

Character and appearance and effects on heritage assets

4. The site lies within Harbertonford Conservation Area (CA) and adjacent to the Grade II listed buildings, known as 'The Old Mill'. Given the adjacency to the

Old Mill, the appeal site falls within the setting of the listed building. Given the heritage sensitivity of the site, my duties under Sections 66(1) and 72(1) of the Listed Building and Conservation Areas Act (1990) are engaged.

5. The CA is characterised by the traditional form of the buildings and layout of the settlement, giving primacy to the church, but evidence of the historic core of the settlement, including the square, former school and public house which the other historic buildings radiate outwards from. Cottages are predominantly two storey, with traditional sliding sash windows and pitched roofs, sited to adjoin the narrow historic streets. More prominent buildings are either three storey or include gothic detailing. The significance of the CA derives from the age and traditional character of the buildings and morphology of the historic streets, but key buildings also provide a greater depth of significance and understanding of the settlement layout.
6. The adjacent Old Mill buildings are Grade II listed buildings of an impressive scale and commanding form relative to the surrounding polite terraces and clusters of cottages. Their significance derives from their ages, deriving from circa. late C18 or early C19, their former use as a woollen mill, later for the manufacture of corn and starch. Their significance also derives from their architectural interest, including their slate rubble construction, casement windows, many with segmental brick arches, chimney stacks and overall composition of the buildings, their openings and use of locally prevalent, natural materials.
7. The adjacent Old Mill buildings have been converted into residential use and the resulting scheme is of a high quality appearance. Their conversion has set a benchmark for the quality of development that should be expected of such heritage assets within such settings.
8. The proposal involves the demolition of an existing wide-span portal frame building with an overhanging open west end. This existing building is large in scale and utilitarian in form and appearance. The open end in particular has a cluttered, untidy appearance. The existing building jars with the adjacent high quality development and currently detracts from the character and appearance of the CA and from the setting of the listed buildings.
9. The proposed building would be set modestly further south but would also be smaller than the existing building, allowing for additional vehicle manoeuvring space. It would accommodate four new dwellings, each over three storeys with garages set at the lowest level and gardens to the rear. The second storey would be set within the roof with openings set within dormer windows.
10. The demolition of the existing building and its replacement with a residential building of an appropriate scale so as to appear subservient and designed in such a way as to continue the rhythm created by the dominant Old Mill buildings, provides an opportunity to realise improvements to the historic environment. Owing to its siting, scale and form, the proposal would enhance the quality and contribution made by the existing site to the setting of the listed buildings and CA. It would appear an appropriate scale of development relative to the plot, thus not resulting in an intensive form of overdevelopment.
11. As part of the appeal, revised plans were submitted with an alternative position, roof form and window composition. Whilst the acceptance of these

plans would not contravene the Wheatcroft¹ principles, I find that the originally submitted scheme would be preferable owing to the simple roof form with flat roof dormers that would better replicate the simple roof form of the adjacent Mill buildings, albeit with modern dormer windows. The fussy gabled alternative, whilst replicating the existing building's roof form to some degree, would not sit as comfortably alongside the adjacent buildings.

12. The external walls of the building would be largely constructed from brick, which differs from the stone finish of the existing Mill buildings and adjacent cottages. The use of brick will present a robust elevation that would read well alongside the existing building, without creating a pastiche development. A condition could ensure that details, including mortar colour, were controlled to preserve the appearance of the area and relationship with the adjacent buildings.
13. The roof and dormer windows of the new buildings would be covered in zinc. This is a material used in the adjacent Mill conversion scheme and provides an aesthetically pleasing contrast between traditional building materials and newer elements. For this reason, the use of zinc on the new building would not be without precedent and its use would maintain a similar quality of finish and appearance to that presented by the neighbouring buildings.
14. Drawing together this main issue, the proposal would enhance the character and appearance of the area. The proposal would also enable a greater appreciation of the CA and adjoining listed buildings, thus would enhance their settings, character and appearance and significance overall. The proposal would therefore comply with, in particular, Policies DEV20 and DEV21 of the JLP². These Policies seek to encourage good quality design that achieve a good quality sense of place and character and conserve and enhance the historic environment.

Living conditions of neighbouring occupiers

15. The existing building is a substantial scale and its current relationship with the existing neighbours to the west could be described as unneighbourly. It dominates the outlook from the windows in the principal elevations and results in the frontage space being enclosed and cluttered. The open-endedness of the elevation closest to the neighbours is also perhaps the least tidy elevation on which to look out upon.
16. The appeal proposal would be set further away from the neighbouring cottages to the west and would present a more pleasant side elevation. The windows in this elevation would be conditioned so that they were maintained as obscure glazed in perpetuity. The neighbours in the adjacent Old Mill building are slightly detached from the appeal site and present a flank elevation absent of any windows towards the appeal site. The proposed building would be sited marginally further south but this would be of little effect to neighbours on either side. Similarly, the overall height would be little different to the existing building so could not be described to be more unneighbourly or detracting from views that the neighbouring occupiers are currently afforded.
17. In view of this main issue, the proposal would not harm the living conditions of neighbouring occupiers, and thus complies with Policy DEV1 and DEV20 of the

¹ Wheatcroft Ltd V SSE [1982]

² Plymouth and South West Devon Joint Local Plan 2014 – 2034 (adopted 2019)

JLP which seek to encourage good quality design and provide for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance for both new and existing residents.

Parking provision

18. The parking provision for the dwellings would be within ground floor garages (one per dwelling, providing one parking space) and with four external parking spaces, largely in the area between the new repositioned side elevation and the boundary of the site. The 200% parking provision is required due to the dwellings each having two bedrooms in accordance with the SPD³.
19. The external parking and manoeuvring spaces, whilst modest, has been found to be capable of accommodating the vehicular routes and turning circles to ensure that they can be used as intended. The suitability of the garages has been raised, with the Council stipulating minimum internal dimensions of at least 6 metres x 3 metres, although these measurements each fall short of the SPD guidance by 0.5 metres. The Council's measurement from the plans results in a width of 5.62 metres which could further inhibit their usability for the parking of cars. The knock-on effect would be increased parking pressures in areas surrounding the building and site.
20. Notwithstanding the detail shown in the plans, the appellant offers to accept a condition specifying the minimum internal dimensions of the garages at 6 m x 3 m to ensure that they are provided at least the minimum size for car parking. As a condition would be necessary to require the garages to be used only for vehicle parking in any event, the inclusion of the minimum specified size would overcome any potential ambiguity with adherence to the plans and avoid the potential harm that may arise if the garages were marginally undersized.
21. A secondary concern is raised in respect of the absence of visitor spaces for the development. There are a number of visitor spaces available at the adjacent Old Mill development, which was also developed by the appellant. There is also a public car park in the centre of Harbertonford, a short distance from the site, which could accommodate any temporary parking requirements.
22. In view of this main issue, and subject to an appropriate condition, the proposal would provide adequate vehicle parking and would thus comply with JLP Policy DEV29. This Policy seeks to ensure sufficient provision and management of car parking in new developments in order to protect the amenity of surrounding residents and ensure safety of the highway network.

Other Matters

23. Neighbours' concerns relating to the siting of parking spaces on a right of access is a civil matter. From the information available to me, the extent of the site area and certificate signed on the application form do not suggest that there are other parties with an ownership interest in the site that would be affected by the appeal.
24. Whilst details on hard surfacing are limited within the submitted plans, these aspects are capable of being controlled by planning conditions. There is limited scope for meaningful landscaping other than that shown in the proposed site plan so a condition to seek further detail of this nature is unnecessary.

³ Plymouth and South West Devon Supplementary Planning Document (2020)

25. The existing site is almost all hardsurfaced and the proposal would likely result in a reduction in the extent of hard surfacing. However, due to the relationship with the adjacent watercourse, it will be necessary to seek details of surface water drainage measures by way of condition.
26. Given the close relationship and shared access with adjoining properties, a construction traffic management plan could be conditioned to minimise any potential disruption. Asbestos control measures will also be necessary but these fall outside of the planning process.

Conditions

27. I have considered the conditions in light of paragraph 55 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance. I have undertaken some minor editing in the interests of precision and clarity.
28. In addition to the statutory time limit, it is necessary to condition the approved plans in the interests of certainty. In the interests of the protection of the environment and human health, it is necessary to condition the remediation of any contamination on site and for proof to be sought that such remediation has been undertaken.
29. In the interests of protecting the living conditions of neighbouring occupiers, it is necessary to seek a construction phase environmental management plan. For similar reasons, it is also necessary to seek a construction traffic management plan. Whilst a drainage scheme has been submitted and the principles of that scheme accepted, I do not find it sufficiently reflective of the scheme before me to require only its implementation. A scheme specific to the proposal shall therefore be required by way of planning condition.
30. Due to the potential impacts of the above aspects (contamination, surface water, construction phase traffic and environmental impacts), it is necessary to seek details by way of pre-commencement conditions rather than at any later phase in the development. The agreement to the imposition of such conditions has been sought from the appellant.
31. In the interests of the character and appearance of the area and preservation of the setting of the adjacent listed building, conditions are necessary in respect of joinery details, external materials and rainwater goods. For similar reasons, details of the surface of the external site area are also required by condition. To avoid harm from potential parking pressures, the garage condition is necessary to specify the minimum internal size and ensure the garages are retained for parking and not used as additional living accommodation.
32. In the interests of the living conditions of neighbouring occupiers, conditions are necessary to ensure that side elevation windows are maintained as obscure glazed and non-opening. In the interests of the heritage sensitivity of the site, its visibility, even from the rear, and the close relationship with neighbouring dwellings, the removal of a range of specific permitted developments, including extensions, roof extensions and alterations, outbuildings and smaller alterations including flues and antennas, is justifiable. Though there is a strong presumption against the use of such conditions in the Planning Practice

Guidance, in this case, I am of the view that such control is necessary to maintain a coherent and neighbourly form of development.

Planning Obligation

33. The appellant submitted a planning agreement containing planning obligations made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the provision of education contributions. This agreement is dated 9 February 2021 and is signed and executed as a deed.
34. The agreement includes a series of obligations which would act to secure education contributions as part of the proposed development. However, the agreement states that these obligations are conditional upon it being determined as part of the appeal that they are necessary to grant planning permission and satisfy the tests outlined at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL regulations).
35. Regulation 122 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. The same tests are outlined at paragraph 56 of the Framework.
36. The contribution towards school place is £13,652.00 and is intended to directly relate directly to providing education facilities for those living in the development. A further contribution towards secondary school transport costs is sought due to the development being further than 3.5 kilometres from the closest secondary school. The costs required are based on one secondary school-aged pupil, a rate of £3.95 day, 190 academic days and the five year duration of secondary school, totalling £3,752.00.
37. Policy DEL1 of the JLP establishes a requirement for the negotiation of planning obligations to mitigate the impact of development on infrastructure, through direct provision or a financial infrastructure contributions. The delivery of education and school transport contributions would be consistent with this requirement, and in this context, I am therefore satisfied that the planning obligations are necessary, directly related, and fairly and reasonably related in to the proposal. Accordingly, I find that the planning obligations meet the tests within Regulation 122 of the CIL regulations and the Framework.

Planning balance and conclusion

38. The proposed development would enhance the character and appearance of the area. The enhancements to the setting of the listed building and to the character and appearance of the CA are both public benefits of the scheme which are to be afforded great weight in the overall balance.
39. With the imposition of suitable conditions and the submitted planning obligation agreement, the proposal would accord with the development plan, and material considerations do not lead me to an alternative decision.
40. For the reasons given above, I conclude that the appeal should be allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, Ref 3392 10 Rev A, dated July 2017
 - Block Plan, Ref 3392 11 Rev B, dated July 2018
 - Proposed Plans and Elevations, Ref SK-001, dated August 2019
 - Proposed Site Plan, Ref SK-005, dated August 2019
 - Low Carbon Development Statement, Ref 1176-OD-Dev32
- 3) Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.
 1. A preliminary risk assessment/desk study identifying:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site
 2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
 3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

The scheme shall be implemented in accordance with the approved details.
- 4) Prior to the commencement of development the following components of a management scheme to deal with the environmental impacts of the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority in writing:
 - details of noise impacts and controls;
 - hours of construction; and
 - dust impact assessment and proposed control in accordance with the Institute of Air Quality Management guidance for dust assessment from construction sites.

The approved construction phase environmental management scheme shall be followed for the course of the construction phase.
- 5) Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

The development shall be undertaken in accordance with the approved CTMP.

- 6) Prior to the commencement of development, a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the dwellings hereby approved.
- 7) No development beyond slab level shall commence until full details of all new joinery have been submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross sections, profiles, reveal, surrounds, materials, finish and colour in respect of new windows, doors and other glazed or timber panels. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form.
- 8) No development beyond slab level shall commence until a schedule of materials and finishes, and samples of the materials, including brick, to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

- 9) Prior to construction above slab level, details (including location) of solar PV panels and details of rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 10) Prior to the construction of the roadway and parking areas, details of the finish to be applied shall be submitted to and approved in writing the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 11) Prior to occupation of any part of the development hereby approved, a verification report demonstrating completion of the works set out in the approved contamination remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met. It shall also include, where relevant, a plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.
- 12) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.
- 13) Notwithstanding the details in the approved plans, the integral garages shall be provided with minimum internal size of 6 metres wide and 3 metres deep. The garages shall be provided prior to occupation of any of the dwellings hereby approved and shall not be used for any purpose other than the garaging of vehicles and ancillary domestic storage associated with the residential occupation of the respective dwellings.
- 14) The external parking spaces shown on approved site plan (Ref SK-005) shall be provided prior to occupation of any of the dwellings hereby approved and shall not be used for any purpose other than for the parking of vehicles.
- 15) The windows on the east and west elevations shall be obscure glazed, non-opening and shall be permanently retained as such thereafter.
- 16) No mud, stones, water or debris shall be deposited on the public highway at any time.
- 17) Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes A-H of the Order, including the erection of extensions, porches, garages or car ports, the stationing of huts, fences or other structures shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.